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the promise of a gift or prize, and at the same time avoiding a conflict with the anti-lottery laws which exist in most states. The question is of even greater importance in view of the federal statutes which forbid the carrying in the mails of any lottery advertisements or notices of results. In the principal case the music company offered a prize for the neatest correct solution of a number puzzle, the award to be determined by a committee of prominent business men. The court held that this was not a lottery as the element of chance was lacking and that the fact that the committee had not considered any answers except those of unique design, did not alter the case. The scheme which is now in most common use is the so-called "gift enterprise", where a ticket is given with a purchase, the ticket entitling the holder to a chance to win a prize which has been offered. The courts have almost universally held such schemes to be lotteries, holding that it makes no difference that the ticket or chance is procured by the purchase of goods as long as the prizes are distributed by chance.⁶ Tickets given with purchases, such tickets allowing the holder to cast a vote for the winner of the prize, are held not to come under the head of lotteries. The so-called "guessing contests", where each purchaser is allowed to make a guess, for example, as to the number of beans in a jar, the individual making the best guess being declared the winner of the prize, have been the subject of a conflict of authorities. The English cases hold that the element of skill and science enters into the transaction, as these guesses can be based on scientific calculation. For many years the American courts followed this line of cases but in recent years this doctrine has been repudiated,⁷ and our courts seem inclined to hold that if the influence of skill is apt to be thwarted by chance, it will be immaterial that the conditions of the distribution permit the exercise of judgment to some extent, and such schemes are adjudged to be lotteries.

Distribution of land by lot is held to be a lottery, although such is not the case when the owners of several parcels of land agree among themselves to distribute them by lot. Various forms of slot machines have been held to be lotteries. The general rule followed in these cases is that where there is a chance to win more than the value of the amount risked, the scheme is a lottery.

A. H. C.

OFFICERS: RIGHT OF A WOMAN TO HOLD PUBLIC OFFICE.—In the case of *State v. De Armijo*¹ the court held that, since the statutory law of New Mexico neither expressly conferred nor

⁶ *Lohman v. The State* (1881), 81 Ind. 15.

⁷ Relying upon the case of *Waite v. Press Pub. Ass'n.* (1907), 155 Fed. 58, and the opinion of Attorney-General Moody which overruled the opinions of his predecessors.

¹ (New Mex., Apr. 20, 1914), 140 Pac. 1123.

denied the right of women to hold office, such a right, if it existed, must depend upon the common law.

Under the common law a woman was eligible to hold a purely ministerial office if capable of performing the duties thereof, where such duties did not call for the exercise of any judgment or discretion. Acting on this principle, the court went into great detail to satisfy itself that the office of State Librarian did not require the exercise of any judgment or discretion, and accordingly decided that since the office was subject to legislative rules and regulation it left no room for discretion.

The court reviewed an interesting series of four decisions under the common law by the Massachusetts court.² In one case the right of a woman to practice law was denied. In another the right to hold the office of Justice of the Peace was also denied. But a woman was considered eligible to act on a State Board of Lunacy and Charities (supposedly under the common law it would require no judgment), and also a woman was considered eligible to school committees.

The right to hold office is not a natural right. Where the constitution is silent on the subject it may be conferred by the legislature or the common law where the common law is in force and no statute expressly or impliedly denies it. Thus there being no statutory prohibitions a woman was held eligible to the office of County Treasurer in Florida and in Nebraska.³

The political code of California formerly provided⁴ "every elector is eligible to the office for which he is an elector, . . . and no person is eligible who is not such an elector". In 1891 this was amended by the insertion of the words "except as otherwise provided for". The legislature later made women eligible as notaries, and to all educational offices.

In *Reed v. Hammond*⁵ just before the suffrage amendment went into effect it was held that a woman was not eligible as assistant Probation Officer of a county because the provision of the political code extended to appointive as well as to elective offices.

By the amendment to the constitution⁶ making women electors they are also made eligible for any office subject to the general qualifications.

E. B. B.

² Robinson's case (1881), 131 Mass. 376, 41 Am. Rep. 239; Opinion of the Justices (1871), 107 Mass. 604; Opinion of the Justices (1883), 136 Mass. 578; Opinion of the Justices (1874), 115 Mass. 602.

³ In re Opinion of Judges (Fla., 1912), 57 So. 351; State v. Quible (1910), 86 Neb. 417, 125 N. W. 619.

⁴ Cal. Pol. Code, § 58.

⁵ (1912), 18 Cal. App. 442, 123 Pac. 346.

⁶ Cal. Const., art ii, § 1.